IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Crl.MC.No. 762 of 2007()

AGAINST THE ORDERIN IP.22/2004 IN SC.315/2000 of ADDL. ASSISTANT SESSIONS COURT, KOLLAM

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PETITIONER: ACCUSED.

RAMESAN, S/O. SREEDHARAN,
VAYALIL VEEDU, NEAR MARANGATTUMUKKU, ADINAD SOUTH MURI, ADINAD VILLAGE, KARUNAGAPPALLY.

BY ADV. SRI.T.GOPALAKRISHNAN

RESPONDENTS: COMPLAINANT.

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KARUNAGAPPALLY, THORUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 762 of 2007

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Dated this the 20th day of March, 2007

O R D E R

The petitioner is an accused in a prosecution under the provisions of the Kerala Abkari Act. The case was pending before the learned Addl. Asst. Sessions Judge, Kollam. The accused did not appear and therefore the case was transferred to the list of long pending cases. According to the petitioner, his inability to appear before the learned Judge was on account of reasons beyond his control. He is prepared to surrender before the learned Judge, but he apprehends that in view of his earlier conduct of not appearing before the learned Sessions Judge, the learned Judge may not consider his application for bail on merits, in accordance with law and expeditiously. He therefore prays that a direction may be issued to the learned Sessions Judge under Section 482 Cr.P.C. to release him on bail on the date of surrender itself.

2. I find absolutely no circumstance justifying the invocation of the powers under Section 482 Cr.P.C. It is certainly for the petitioner to appear before the learned Judge and explain to the

learned Judge the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Sessions Judge would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order.

(R. BASANT)
Judge

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